

ASSEMBLY BILL

No. 1123

**Introduced by Committee on Revenue and Taxation (Corbett
(Chair), Harman (Vice Chair), Alquist, Aroner, Cedillo, Koretz,
Matthews, and Wyland)**

February 23, 2001

An act to amend Section 25205.6 of the Health and Safety Code, to amend Sections 42886 and 42886.1 of the Public Resources Code, to amend Sections 6593.5, 7285, 7285.5, 7288.3, 7655, 7657, 7658, 7658.1, 7659.2, 8878, 8878.5, 11409, 30014, 30016, 30104, 30108, 30176.1, 30181, 30283.5, 32255, 32256.5, 38455, 40103.5, 41097.5, 43152.9, 43158.5, 45156.5, 46157.5, 50112.4, 55046, and 60212 of, to add Article 2.5 (commencing with Section 7659.9) to Chapter 5 of Part 2 of Division 2 of, and to repeal Section 30463 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1123, as introduced, Committee on Revenue and Taxation. Taxation: sales and use taxes: transactions taxes: special taxes and fees.

The Board of Equalization collects and administers a variety of tax and fee programs with respect to matters including, but not limited to, vehicle fuels, timber, cigarettes and tobacco products, alcoholic beverages, emergency telephone services, integrated waste management, oil spills, hazardous materials, underground storage systems, and private railroad cars.

This bill would make technical, nonsubstantive changes to the provisions under which the board administers these tax programs.

Existing law requires certain taxes administered by the State Board of Equalization to be paid by electronic transmission when the tax liability meets a specified threshold, and allows payment by electronic transmission if the tax liability is below that threshold.

This bill extends the electronic transmission requirements to payments of the motor vehicle fuel tax.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25205.6 of the Health and Safety Code
2 is amended to read:

3 25205.6. (a) On or before November 1 of each year, the
4 department shall provide the board with a schedule of codes, that
5 consists of the types of corporations that use, generate, store, or
6 conduct activities in this state related to hazardous materials, as
7 defined in ~~subdivision (k)~~ of Section 25501, including, but not
8 limited to, hazardous waste. The schedule shall consist of
9 identification codes from one of the following classification
10 systems, as deemed suitable by the department:

11 (1) The Standard Industrial Classification (SIC) system
12 established by the United States Department of Commerce.

13 (2) The North American Industry Classification System
14 (NAICS) adopted by the United States Census Bureau.

15 (b) Each corporation of a type identified in the schedule
16 adopted pursuant to subdivision (a) shall pay an annual fee, which
17 shall be set at two hundred dollars (\$200) for those corporations
18 with 50 or more employees, but less than 75 employees, three
19 hundred fifty dollars (\$350) for those corporations with 75 or more
20 employees, but less than 100 employees, seven hundred dollars
21 (\$700) for those corporations with 100 or more employees, but less
22 than 250 employees, one thousand five hundred dollars (\$1,500)
23 for those corporations with 250 or more employees, but less than
24 500 employees, two thousand eight hundred dollars (\$2,800) for
25 those corporations with 500 or more employees, but less than
26 1,000 employees, and nine thousand five hundred dollars (\$9,500)
27 for those corporations with 1,000 or more employees.

28 (c) The fee imposed pursuant to this section shall be paid by
29 each corporation that is identified in the schedule adopted pursuant



1 to subdivision (a) in accordance with Part 22 (commencing with
2 Section 43001) of Division 2 of the Revenue and Taxation Code
3 and shall be deposited in the Toxic Substances Control Account.
4 The revenues shall be available, upon appropriation by the
5 Legislature, for the purposes specified in subdivision (b) of
6 Section 25173.6.

7 (d) For purposes of this section, the number of employees
8 employed by a corporation is the number of persons employed in
9 this state for more than 500 hours during the calendar year
10 preceding the calendar year in which the fee is due.

11 (e) The fee rates specified in subdivision (b) are the rates for the
12 1998 calendar year. Beginning with the 1999 calendar year, and for
13 each calendar year thereafter, the board shall adjust the rates
14 annually to reflect increases or decreases in the cost of living
15 during the prior fiscal year, as measured by the Consumer Price
16 Index issued by the Department of Industrial Relations or by a
17 successor agency.

18 (f) Pursuant to paragraph (3) of subsection (c) of Section 104
19 of the federal Comprehensive Environmental Response,
20 Compensation, and Liability Act of 1980, as amended (42 U.S.C.
21 Sec. 9404(c)(3)), the state is obligated, as authorized by paragraph
22 (2) of subdivision (a) of Section 25351, to pay specified costs of
23 removal and remedial actions carried out pursuant to the federal
24 Comprehensive Environmental Response, Compensation, and
25 Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).
26 The fee rates specified in subdivision (b) are intended to provide
27 sufficient revenues to fund the purposes of subdivision (b) of
28 Section 25173.6, including appropriations in any given fiscal year
29 of three million three hundred thousand dollars (\$3,300,000) to
30 fund the state's obligation pursuant to paragraph (3) of subsection
31 (c) of Section 104 of the federal Comprehensive Environmental
32 Response, Compensation, and Liability Act of 1980, as amended
33 (42 U.S.C. Sec. 9404(c)(3)). If the department determines that the
34 state's obligation under paragraph (3) of subsection (c) of Section
35 104 of the federal Comprehensive Environmental Response,
36 Compensation, and Liability Act of 1980, as amended (42 U.S.C.
37 Sec. 9404(c)(3)) will exceed three million three hundred thousand
38 dollars (\$3,300,000) in any fiscal year, the department shall report
39 that determination to the Legislature in the Governor's Budget. If,
40 as part of the Budget Act deliberations, the Legislature concurs

1 with the department's determination, the Legislature shall specify
2 in the annual Budget Act those pro rata changes to the fee rates
3 specified in subdivision (b) that will increase revenues in the next
4 calendar year as necessary to fund the state's increased obligations.
5 However, the Legislature shall not specify fee rates in the annual
6 Budget Act that increase revenues in an amount greater than eight
7 million two hundred thousand dollars (\$8,200,000) above the
8 revenues provided by the fee rates specified in subdivision (b).
9 Any changes in the fee rates approved by the Legislature in the
10 annual Budget Act pursuant to this subdivision shall have effect
11 only on the fee payment that is due and payable by the end of
12 February in the fiscal year for which that annual Budget Act is
13 enacted.

14 (g) This section does not apply to nonprofit corporations
15 primarily engaged in the provision of residential social and
16 personal care for children, the aged, and special categories of
17 persons with some limits on their ability for self-care, as described
18 in SIC Code 8361 of the Standard Industrial Classification (SIC)
19 Manual published by the United States Office of Management and
20 Budget, 1987 edition.

21 SEC. 2. Section 42886 of the Public Resources Code is
22 amended to read:

23 42886. ~~(a)~~—The fees remitted pursuant to Section 42885 are
24 due and payable quarterly on or before the 15th day of the month
25 following each ~~quarterly or yearly reporting period~~ *calendar*
26 *quarter*.

27 ~~(b) A penalty of 20 percent of any fees not paid when due shall~~
28 ~~be assessed and collected.~~

29 SEC. 3. Section 42886.1 of the Public Resources Code is
30 amended to read:

31 42886.1. (a) The ~~board~~ *State Board of Equalization* if it
32 deems it necessary in order to ensure payment to or facilitate the
33 collection by the state of the amount of fees, may require returns
34 and payment of the amount of fees for a yearly period.

35 (b) On or before the 15th day of the month following each
36 designated yearly period, a return for the preceding designated
37 yearly period shall be filed with the ~~board~~ *State Board of*
38 *Equalization* in the form as the board may prescribe.

39 SEC. 4. Section 6593.5 of the Revenue and Taxation Code is
40 amended to read:

1 6593.5. (a) The board, in its discretion, may relieve all or any
2 part of the interest imposed on a person by ~~Sections 6480.4,~~
3 ~~6480.8, 6513, 6591, and 6592.5~~ *this part* under the following
4 circumstances:

5 (1) Where the failure to pay tax is due in whole or in part to an
6 unreasonable error or delay by an employee of the board acting in
7 his or her official capacity.

8 (2) Where failure to pay use tax on a vehicle or vessel registered
9 with the Department of Motor Vehicles was the direct result of an
10 error by the Department of Motor Vehicles in calculating the use
11 tax.

12 (b) For purposes of this section, an error or delay shall be
13 deemed to have occurred only if no significant aspect of the error
14 or delay is attributable to an act of, or a failure to act by, the
15 taxpayer.

16 (c) Any person seeking relief under this section shall file with
17 the board a statement under penalty of perjury setting forth the
18 facts on which the claim for relief is based and any other
19 information which the board may require.

20 (d) The board may grant relief only for interest imposed on tax
21 liabilities that arise during taxable periods commencing on or after
22 July 1, 1999.

23 SEC. 5. Section 7285 of the Revenue and Taxation Code is
24 amended to read:

25 7285. The board of supervisors of any county may levy a
26 transactions and use tax *for general purposes* at a rate of 0.25
27 percent or a multiple thereof, if the ordinance ~~or resolution~~
28 proposing that tax is approved by a two-thirds vote of all members
29 of the board of supervisors and the tax is approved by a majority
30 vote of the qualified voters of the county voting in an election on
31 the issue. The board of supervisors may levy more than one
32 transaction and use tax under this section, if the adoption of each
33 tax is in the manner prescribed in this section. The transactions and
34 use tax shall conform to Part 1.6 (commencing with Section 7251).

35 SEC. 6. Section 7285.5 of the Revenue and Taxation Code is
36 amended to read:

37 7285.5. As an alternative to the procedure set forth in Section
38 7285, the board of supervisors of any county may ~~establish an~~
39 ~~authority~~ *levy a transactions and use tax* for specific purposes.

~~An authority so established may impose a transactions and use tax. The tax may be levied at a rate of 0.25 or 0.5 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:~~

(a) The ordinance proposing that tax is approved by a two-thirds vote of ~~the authority~~ *all members of the board of supervisors* and is subsequently approved by a *two-thirds* vote of the qualified voters of the county voting in an election on the issue ~~in the amount that is otherwise required by law.~~

(b) The transactions and use tax conforms to *the Transactions and Use Tax Law* Part 1.6 (commencing with Section 7251).

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

SEC. 7. Section 7288.3 of the Revenue and Taxation Code is amended to read:

7288.3. A local public finance authority may adopt an ordinance imposing, for the authority's general purpose, a transactions and use tax that conforms with Part 1.6 (commencing with Section 7251) at a rate of 0.25 percent, ~~or 0.5 percent a multiple thereof,~~ if all of the following requirements are met:

(a) The ordinance specifies how the proceeds of the tax will be allocated among drug abuse prevention, crime prevention, health care services, and public education purposes. Funds allocated for public education purposes shall be governed by Chapter 8 (commencing with Section 42400) of Part 24 of Division 3 of Title 2 of the Education Code.

(b) The ordinance proposing the tax is approved by a two-thirds vote of the board of directors of the authority, provided that the two-thirds majority includes at least three of the members described in subdivision (a) of Section 7288.2, and at least three of the members described in subdivision (b) of Section 7288.2.

(c) The ordinance proposing the tax is approved by ~~a majority~~ *two-thirds* of the qualified voters of the county voting on the measure.

SEC. 8. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. (a) Any person who fails to pay the amount of tax shown to be due by his or her return on or before the last day of the month following the monthly period to which it relates shall pay

a penalty of 10 percent of the tax, together with interest on that tax at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax became due and payable to the state until the date of payment.

(b) Any supplier who fails to file a return in accordance with the due date set forth in Section 7651 shall pay a penalty of 10 percent of the amount of the tax, exclusive of prepayments, with respect to the period for which the return is required.

(c) The penalties imposed by this section shall be limited to a maximum of 10 percent of the tax for which the return is required, exclusive of any prepayments, for any one return.

SEC. 9. Section 7657 of the Revenue and Taxation Code is amended to read:

7657. *(a) If the board finds that a person's failure to make a timely report, return, or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 7654, 7655, 7659.5, 7659.6, 7659.9, 7660, 7705, and 7713. Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which the person bases his or her claim for relief.*

(b) Except as provided in subdivision (c), any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

(c) The board shall establish criteria that provides for efficient resolution of requests for relief pursuant to this section.

SEC. 10. Section 7658 of the Revenue and Taxation Code is amended to read:

7658. If the board finds that a person's failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 7655, 7656, 7659.9, 7661, and 7706. Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 11. Section 7658.1 of the Revenue and Taxation Code is amended to read:

1 7658.1. (a) The board, in its discretion, may relieve all or any
2 part of the interest imposed on a person by ~~Sections 7655 and 7661~~
3 *this part* where the failure to pay tax is due in whole or in part to
4 an unreasonable error or delay by an employee of the board acting
5 in his or her official capacity.

6 (b) For purposes of this section, an error or delay shall be
7 deemed to have occurred only if no significant aspect of the error
8 or delay is attributable to an act of, or a failure to act by, the person.

9 (c) Any person seeking relief under this section shall file with
10 the board a statement under penalty of perjury setting forth the
11 facts on which the claim for relief is based and any other
12 information which the board may require.

13 (d) The board may grant relief only for interest imposed on tax
14 liabilities that arise during taxable periods commencing on or after
15 January 1, 2000.

16 SEC. 12. Section 7659.2 of the Revenue and Taxation Code
17 is amended to read:

18 7659.2. ~~Each~~ *Except in the case of a person required to remit*
19 *amounts due in accordance with Article 2.5 (commencing with*
20 *Section 7659.9), for purposes of Section 7659.1, each* prepayment
21 shall be accompanied by a report of the amount of that prepayment
22 in a form prescribed by the board and shall be filed with the board
23 on or before the 15th day following each monthly period together
24 with a remittance payable to the Controller of the amount due.

25 SEC. 13. Article 2.5 (commencing with Section 7659.9) is
26 added to Chapter 5 of Part 2 of Division 2 of the Revenue and
27 Taxation Code, to read:

28
29 Article 2.5. Payment by Electronic Funds Transfer
30

31 7659.9. (a) Any person whose estimated tax liability under
32 this part averages twenty thousand dollars (\$20,000) or more per
33 month, as determined by the board pursuant to methods of
34 calculation prescribed by the board, shall remit amounts due by an
35 electronic funds transfer under procedures prescribed by the
36 board.

37 (b) Any person whose estimated tax liability under this part
38 averages less than twenty thousand dollars (\$20,000) per month
39 may elect to remit amounts due by electronic funds transfer with

1 the approval of the board. The election shall be operative for a
2 minimum of one year.

3 (c) Any person remitting amounts due pursuant to subdivision
4 (a) or (b) shall perform an electronic funds transfer in compliance
5 with the due dates set forth in Article 1 (commencing with Section
6 7651) and Article 1.1 (commencing with Section 7659). Payment
7 is deemed complete on the date the electronic funds transfer is
8 initiated, if settlement to the state's demand account occurs on or
9 before the banking day following the date the transfer is initiated.
10 If settlement to the state's demand account does not occur on or
11 before the banking day following the date the transfer is initiated,
12 payment is deemed to occur on the date settlement occurs.

13 (d) Any person remitting taxes by electronic funds transfer
14 shall, on or before the due date of the remittance, file a return for
15 the preceding reporting period in the form and manner prescribed
16 by the board. Any person who fails to timely file the required
17 return shall pay a penalty of 10 percent of the amount of taxes,
18 exclusive of prepayments, with respect to the period for which the
19 return is required.

20 (e) (1) Except as provided in paragraph (2), any person
21 required to remit taxes pursuant to this article who remits those
22 taxes by means other than appropriate electronic funds transfer
23 shall pay a penalty of 10 percent of the taxes incorrectly remitted.

24 (2) A person required to remit prepayments pursuant to this
25 article who remits a prepayment by means other than an
26 appropriate electronic funds transfer shall pay a penalty of 6
27 percent of the prepayment incorrectly remitted.

28 (f) Except as provided by Sections 7659.5 and 7659.6, any
29 person who fails to pay any tax to the state or any amount of tax
30 required to be paid to the state, except amounts of determinations
31 made by the board under Article 2 (commencing with Section
32 7660) or Article 2.5 (commencing with Section 7670), within the
33 time required shall pay a penalty of 10 percent of the tax or amount
34 of tax, in addition to the tax or amount of tax, plus interest at the
35 modified adjusted rate per month, or fraction thereof, established
36 pursuant to Section 6591.5, from the date on which the tax or the
37 amount of tax required to be paid became due and payable to the
38 state until the date of payment.

39 (g) In determining whether a person's estimated tax liability
40 averages twenty thousand dollars (\$20,000) or more per month,

1 the board may consider tax returns filed pursuant to this part and
2 any other information in the board's possession.

3 (h) Except as provided in subdivision (i), the penalties imposed
4 by subdivisions (d), (e), and (f) shall be limited to a maximum of
5 10 percent of the taxes due, exclusive of prepayments, for any one
6 return. Any person remitting taxes by electronic funds transfer
7 shall be subject to the penalties under this section and not Section
8 7655.

9 (i) The penalties imposed with respect to paragraph (2) of
10 subdivision (e) and Sections 7659.5 and 7659.6 shall be limited to
11 a maximum of 6 percent of the prepayment amount.

12 (j) The board shall promulgate regulations pursuant to Chapter
13 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code for purposes of implementing this
15 section.

16 7659.91. If the board finds that a person's failure to make
17 payment by an appropriate electronic funds transfer in accordance
18 with board procedures is due to reasonable cause and
19 circumstances beyond the person's control, and occurred
20 notwithstanding the exercise of ordinary care and in the absence
21 of willful neglect, that person shall be relieved of the penalty
22 provided in subdivision (e) of Section 7659.9. Any person seeking
23 to be relieved of the penalty shall file with the board a statement
24 under penalty of perjury setting forth the facts upon which he or
25 she bases his or her claim for relief.

26 7659.92. (a) "Electronic funds transfer" means any transfer
27 of funds, other than a transaction originated by check, draft, or
28 similar paper instrument, that is initiated through an electronic
29 terminal, telephonic instrument, or computer or magnetic tape, so
30 as to order, instruct, or authorize a financial institution to debit or
31 credit an account. Electronic funds transfers shall be accomplished
32 by an automated clearinghouse debit, an automated clearinghouse
33 credit, or by Federal Reserve Wire Transfer (Fedwire).

34 (b) "Automated clearinghouse" means any federal reserve
35 bank, or an organization established in agreement with the
36 National Automated Clearing House Association, that operates as
37 a clearinghouse for transmitting or receiving entries between
38 banks or bank accounts and which authorizes an electronic transfer
39 of funds between these banks or bank accounts.



(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person, through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 7659.9 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

SEC. 14. Section 8878 of the Revenue and Taxation Code is amended to read:

8878. If the board finds that a person’s failure to make a timely return or payment was due to a disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the interest provided by Sections 8754, 8760, 8803, and 8876.

Any person seeking to be relieved of the interest shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

SEC. 15. Section 8878.5 of the Revenue and Taxation Code is amended to read:

8878.5. (a) The board, in its discretion, may relieve all or any part of the interest imposed on a person by ~~Sections 8803 and 8876~~ *this part* where the failure to pay tax is due in whole or in part to an unreasonable error or delay by an employee of the board acting in his or her official capacity.

1 (b) For purposes of this section, an error or delay shall be
2 deemed to have occurred only if no significant aspect of the error
3 or delay is attributable to an act of, or a failure to act by, the
4 taxpayer.

5 (c) Any person seeking relief under this section shall file with
6 the board a statement under penalty of perjury setting forth the
7 facts on which the claim for relief is based and any other
8 information which the board may require.

9 (d) The board may grant relief only for interest imposed on tax
10 liabilities that arise during taxable periods commencing on or after
11 January 1, 2000.

12 SEC. 16. Section 11409 of the Revenue and Taxation Code is
13 amended to read:

14 11409. (a) The board, in its discretion, may relieve all or any
15 part of the interest imposed on a person by ~~Section 11319~~ *this part*
16 where the failure to pay tax is due in whole or in part to an
17 unreasonable error or delay by an employee of the board acting in
18 his or her official capacity.

19 (b) For purposes of this section, an error or delay shall be
20 deemed to have occurred only if the person filed a timely report
21 and no significant aspect of the error or delay is attributable to an
22 act of, or a failure to act by, the taxpayer.

23 (c) Any person seeking relief under this section shall file with
24 the board a statement under penalty of perjury setting forth the
25 facts on which the claim for relief is based and any other
26 information which the board may require.

27 (d) The board may grant relief only for interest imposed on tax
28 liabilities that arise during taxable periods commencing on or after
29 January 1, 2000.

30 SEC. 17. Section 30014 of the Revenue and Taxation Code is
31 amended to read:

32 30014. (a) “Transporter” means any person transporting
33 into or within this state any of the following:

34 (1) Cigarettes not contained in packages to which are affixed
35 California cigarette tax stamps or meter impressions.

36 (2) Tobacco products upon which the tobacco products surtax
37 imposed by Article 2 (commencing with Section 30121) *and*
38 *Article 3 (commencing with Section 30131)* of Chapter 2 has not
39 been paid.

40 (b) “Transporter” shall not include any of the following:



1 (1) A licensed distributor.

2 (2) A common carrier.

3 (3) A person transporting cigarettes and tobacco products
4 under federal internal revenue bond or customs control that are
5 non-tax-paid under Chapter 52 of the Internal Revenue Act of
6 1954 as amended.

7 SEC. 18. Section 30016 of the Revenue and Taxation Code is
8 amended to read:

9 30016. "Wholesaler" includes:

10 (a) Any person, other than a licensed distributor, who engages
11 in this state in making sales for resale of cigarettes that are
12 contained in packages to which are affixed stamps or meter
13 impressions.

14 (b) Any person, other than a licensed distributor, who engages
15 in this state in making sales for resale of tobacco products on which
16 the tax imposed in ~~Section~~ *Sections 30123 and 30131.2* has been
17 paid.

18 SEC. 19. Section 30104 of the Revenue and Taxation Code is
19 amended to read:

20 30104. The taxes imposed by this part shall not apply to the
21 sale of cigarettes or tobacco products by a distributor to a common
22 carrier engaged in interstate or foreign passenger service or to a
23 person authorized to sell cigarettes or tobacco products on the
24 facilities of the carrier. Whenever cigarettes or tobacco products
25 are sold by distributors to common carriers engaged in interstate
26 or foreign passenger service for use or sale on facilities of the
27 carriers, or to persons authorized to sell cigarettes or tobacco
28 products on those facilities, the tax imposed by Sections 30101
29 ~~and~~, 30123, *and 30131.2* shall not be levied with respect to the
30 sales of the cigarettes or tobacco products by the distributors, but
31 a tax is hereby levied upon the carriers or upon the persons
32 authorized to sell cigarettes or tobacco products on the facilities of
33 the carriers, as the case may be, for the privilege of making sales
34 in California at the same rate as set forth in Sections 30101 ~~and~~,
35 30123, *and 30131.2*. Those common carriers and authorized
36 persons shall pay the tax imposed by this section and file reports
37 with the board, as provided in Section 30186.

38 SEC. 20. Section 30108 of the Revenue and Taxation Code is
39 amended to read:

1 30108. (a) Every distributor engaged in business in this state
2 and selling or accepting orders for cigarettes or tobacco products
3 with respect to the sale of which the tax imposed by Sections 30101
4 ~~and~~, 30123, *and 30131.2* is inapplicable shall, at the time of
5 making the sale or accepting the order or, if the purchaser is not
6 then obligated to pay the tax with respect to his or her distribution
7 of the cigarettes or tobacco products, at the time the purchaser
8 becomes so obligated, collect the tax from the purchaser, if the
9 purchaser is other than a licensed distributor, and shall give to the
10 purchaser a receipt therefor in the manner and form prescribed by
11 the board.

12 (b) Every person engaged in business in this state and making
13 gifts of untaxed cigarettes or tobacco products as samples with
14 respect to which the tax imposed by Sections 30101 ~~and~~, 30123,
15 *and 30131.2* is inapplicable shall, at the time of making the gift or,
16 if the donee is not then obligated to pay the tax with respect to his
17 or her distribution of the cigarettes or tobacco products, at the time
18 the donee becomes so obligated, collect the tax from the donee, if
19 the donee is other than a licensed distributor, and shall give the
20 donee a receipt therefor in the manner and form prescribed by the
21 board. This section shall not apply to those distributions of
22 cigarettes or tobacco products which are exempt from tax under
23 Section 30105.5.

24 (c) “Engaged in business in the state” means and includes any
25 of the following:

26 (1) Maintaining, occupying, or using, permanently or
27 temporarily, directly or indirectly, or through a subsidiary, or
28 agent, by whatever name called, an office, place of distribution,
29 sales or sample room or place, warehouse or storage place, or other
30 place of business.

31 (2) Having any representative, agent, salesperson, canvasser or
32 solicitor operating in this state under the authority of the
33 distributor or its subsidiary for the purpose of selling, delivering,
34 or the taking of orders for cigarettes or tobacco products.

35 (d) The taxes required to be collected by this section constitute
36 debts owed by the distributor, or other person required to collect
37 the taxes, to the state.

38 SEC. 21. Section 30176.1 of the Revenue and Taxation Code
39 is amended to read:



1 30176.1. (a) The board shall, pursuant to regulations
2 prescribed by it, refund or credit to a distributor the tax imposed
3 on tobacco products pursuant to Article 2 (commencing with
4 Section 30121) *and Article 3 (commencing with Section 30131)* of
5 Chapter 2 which is paid on the distribution of tobacco products
6 which are shipped to a point outside the state for subsequent use
7 or sale out of the state.

8 (b) This section does not apply to tobacco products delivered
9 to the consumer in this state and subsequently taken outside the
10 state.

11 SEC. 22. Section 30181 of the Revenue and Taxation Code is
12 amended to read:

13 30181. (a) When any tax imposed upon cigarettes under
14 Article 1 (commencing with Section 30101) ~~or~~, Article 2
15 (commencing with Section 30121), *and Article 3 (commencing*
16 *with Section 30131)* of Chapter 2 is not paid through the use of
17 stamps or meter impressions, the tax shall be due and payable
18 monthly on or before the 25th day of the month following the
19 calendar month in which a distribution of cigarettes occurs, or in
20 the case of a sale of cigarettes on the facilities of a common carrier
21 for which the tax is imposed pursuant to Section 30104, the tax
22 shall be due and payable monthly on or before the 25th day of the
23 month following the calendar month in which a sale of cigarettes
24 on the facilities of the carrier occurs.

25 (b) Each distributor of tobacco products shall file a return in the
26 form prescribed by the board for each calendar month. The return
27 shall be filed with the board on or before the 25th day of the
28 calendar month following the close of the monthly period for
29 which it relates, together with a remittance payable to the board,
30 of the amount of tax, if any, due under Article 2 (commencing with
31 Section 30121) *or Article 3 (commencing with Section 30131)* of
32 Chapter 2 for that period. To facilitate the administration of this
33 part, the board may require the filing of the returns for longer than
34 monthly periods.

35 SEC. 23. Section 30283.5 of the Revenue and Taxation Code
36 is amended to read:

37 30283.5. (a) The board, in its discretion, may relieve all or
38 any part of the interest imposed on a person by ~~Sections 30171,~~
39 ~~30223, and 30281~~ *this part* where the failure to pay tax is due in

1 whole or in part to an unreasonable error or delay by an employee
2 of the board acting in his or her official capacity.

3 (b) For purposes of this section, an error or delay shall be
4 deemed to have occurred only if no significant aspect of the error
5 or delay is attributable to an act of, or a failure to act by, the
6 taxpayer.

7 (c) Any person seeking relief under this section shall file with
8 the board a statement under penalty of perjury setting forth the
9 facts on which the claim for relief is based and any other
10 information which the board may require.

11 (d) The board may grant relief only for interest imposed on tax
12 liabilities that arise during taxable periods commencing on or after
13 January 1, 2000.

14 SEC. 24. Section 30463 of the Revenue and Taxation Code is
15 repealed.

16 ~~30463. There is hereby appropriated from the Cigarette Tax~~
17 ~~Fund an amount equal to seventy percent (70%) of the money in~~
18 ~~the fund which is derived from the tax imposed pursuant to Article~~
19 ~~3 (commencing with Section 30131) of Chapter 2 of this part, such~~
20 ~~money to be allocated by the Controller on or before December 15,~~
21 ~~1967, to each city, city and county, and county in this state in the~~
22 ~~proportion that sales tax revenues transmitted pursuant to Part 1.5~~
23 ~~(commencing with Section 7200) of this division to each such city,~~
24 ~~city and county and in the unincorporated territory of a county~~
25 ~~bears to the total of such revenue in the state.~~

26 ~~The appropriation and allocations specified by this section are~~
27 ~~in addition to the allocations specified in subdivision (c) of Section~~
28 ~~30462. The money allocated pursuant to this section shall be used~~
29 ~~for the purposes set forth in Section 151 of Chapter 963 of the~~
30 ~~Statutes of the 1967 Regular Session of the Legislature.~~

31 SEC. 25. Section 32255 of the Revenue and Taxation Code is
32 amended to read:

33 32255. (a) If the board finds that a person's failure to make
34 a timely return or payment is due to reasonable cause and
35 circumstances beyond the person's control, and occurred
36 notwithstanding the exercise of ordinary care and the absence of
37 willful neglect, the person may be relieved of the penalty provided
38 by Sections 32252, 32260, 32291, ~~32292~~, and 32305.

39 (b) Except as provided in subdivision (c), any person seeking
40 to be relieved of the penalty shall file with the board a statement

1 under penalty of perjury setting forth the facts upon which he or
2 she bases his or her claim for relief.

3 (c) The board shall establish criteria that provide for efficient
4 resolution of requests for relief pursuant to this section.

5 SEC. 26. Section 32256.5 of the Revenue and Taxation Code
6 is amended to read:

7 32256.5. (a) The board, in its discretion, may relieve all or
8 any part of the interest imposed on a person by ~~Sections 32254 and~~
9 ~~32294~~ *this part* where the failure to pay tax is due in whole or in
10 part to an unreasonable error or delay by an employee of the board
11 acting in his or her official capacity.

12 (b) For purposes of this section, an error or delay shall be
13 deemed to have occurred only if no significant aspect of the error
14 or delay is attributable to an act of, or a failure to act by, the
15 taxpayer.

16 (c) Any person seeking relief under this section shall file with
17 the board a statement under penalty of perjury setting forth the
18 facts on which the claim for relief is based and any other
19 information which the board may require.

20 (d) The board may grant relief only for interest imposed on tax
21 liabilities that arise during taxable periods commencing on or after
22 January 1, 2000.

23 SEC. 27. Section 38455 of the Revenue and Taxation Code is
24 amended to read:

25 38455. (a) The board, in its discretion, may relieve all or any
26 part of the interest imposed on a person by ~~Sections 38412, 38423,~~
27 ~~38432, and 38451~~ *this part* where the failure to pay tax is due in
28 whole or in part to an unreasonable error or delay by an employee
29 of the board acting in his or her official capacity.

30 (b) For purposes of this section, an error or delay shall be
31 deemed to have occurred only if the person filed a timely report
32 and no significant aspect of the error or delay is attributable to an
33 act of, or a failure to act by, the taxpayer.

34 (c) Any person seeking relief under this section shall file with
35 the board a statement under penalty of perjury setting forth the
36 facts on which the claim for relief is based and any other
37 information which the board may require.

38 (d) The board may grant relief only for interest imposed on tax
39 liabilities that arise during taxable periods commencing on or after
40 January 1, 2000.

1 SEC. 28. Section 40103.5 of the Revenue and Taxation Code
2 is amended to read:

3 40103.5. (a) The board, in its discretion, may relieve all or
4 any part of the interest imposed on a person by ~~Sections 40083 and~~
5 ~~40104~~ *this part* where the failure to pay the surcharge is due in
6 whole or in part to an unreasonable error or delay by an employee
7 of the board acting in his or her official capacity.

8 (b) For purposes of this section, an error or delay shall be
9 deemed to have occurred only if no significant aspect of the error
10 or delay is attributable to an act of, or a failure to act by, the person
11 liable for the surcharge.

12 (c) Any person seeking relief under this section shall file with
13 the board a statement under penalty of perjury setting forth the
14 facts on which the claim for relief is based and any other
15 information which the board may require.

16 (d) The board may grant relief only for interest imposed on
17 surcharge liabilities that arise during taxable periods commencing
18 on or after January 1, 2000.

19 SEC. 29. Section 41097.5 of the Revenue and Taxation Code
20 is amended to read:

21 41097.5. (a) The board, in its discretion, may relieve all or
22 any part of the interest imposed on a person by ~~Sections 41082 and~~
23 ~~41095~~ *this part* where the failure to pay tax is due in whole or in
24 part to an unreasonable error or delay by an employee of the board
25 acting in his or her official capacity.

26 (b) For purposes of this section, an error or delay shall be
27 deemed to have occurred only if no significant aspect of the error
28 or delay is attributable to an act of, or a failure to act by, the
29 taxpayer.

30 (c) Any person seeking relief under this section shall file with
31 the board a statement under penalty of perjury setting forth the
32 facts on which the claim for relief is based and any other
33 information which the board may require.

34 (d) The board may grant relief only for interest imposed on tax
35 liabilities that arise during taxable periods commencing on or after
36 January 1, 2000.

37 SEC. 30. Section 43152.9 of the Revenue and Taxation Code
38 is amended to read:

39 43152.9. (a) The fee imposed pursuant to Section 25205.6 of
40 the Health and Safety Code, which is collected and administered

1 under Section ~~43053~~ 43054, is due and payable on the last day of
2 the second month following the end of the calendar year.

3 (b) Every corporation subject to the fee imposed pursuant to
4 Section 25205.6 of the Health and Safety Code shall, on forms
5 prescribed by the board, file an annual return and pay the proper
6 amount of fee due.

7 SEC. 31. Section 43158.5 of the Revenue and Taxation Code
8 is amended to read:

9 43158.5. (a) The board, in its discretion, may relieve all or
10 any part of the interest imposed on a person by Section 43156 and
11 ~~may relieve all or any part of the interest imposed on a person by~~
12 ~~Section 43201 where the deficiency determination is made~~
13 ~~because no return was filed or payment of the fee was not made~~
14 ~~timely, this part~~ where the failure to pay fees is due in whole or in
15 part to an unreasonable error or delay by an employee of the board
16 acting in his or her official capacity.

17 (b) For purposes of this section, an error or delay shall be
18 deemed to have occurred only if no significant aspect of the error
19 or delay is attributable to an act of, or a failure to act by, the
20 taxpayer.

21 (c) Any person seeking relief under this section shall file with
22 the board a statement under penalty of perjury setting forth the
23 facts on which the claim for relief is based and any other
24 information which the board may require.

25 (d) The board may grant relief only for interest imposed on tax
26 liabilities that arise during taxable periods commencing on or after
27 January 1, 2000.

28 SEC. 32. Section 45156.5 of the Revenue and Taxation Code
29 is amended to read:

30 45156.5. (a) The board, in its discretion, may relieve all or
31 any part of the interest imposed on a person by Section 45154 and
32 ~~may relieve all or any part of the interest imposed on a person by~~
33 ~~Section 45201 where the deficiency determination is made~~
34 ~~because no return was filed or payment of the fee was not made~~
35 ~~timely, this part~~ where the failure to pay fees is due in whole or in
36 part to an unreasonable error or delay by an employee of the board
37 acting in his or her official capacity.

38 (b) For purposes of this section, an error or delay shall be
39 deemed to have occurred only if no significant aspect of the error

1 or delay is attributable to an act of, or a failure to act by, the
2 feepayer.

3 (c) Any person seeking relief under this section shall file with
4 the board a statement under penalty of perjury setting forth the
5 facts on which the claim for relief is based and any other
6 information which the board may require.

7 (d) The board may grant relief only for interest imposed on fee
8 liabilities that arise during taxable periods commencing on or after
9 January 1, 2000.

10 SEC. 33. Section 46157.5 of the Revenue and Taxation Code
11 is amended to read:

12 46157.5. (a) The board, in its discretion, may relieve all or
13 any part of the interest imposed on a person by ~~Sections 46155 and~~
14 ~~46253~~ *this part* where the failure to pay fees is due in whole or in
15 part to an unreasonable error or delay by an employee of the board
16 acting in his or her official capacity.

17 (b) For purposes of this section, an error or delay shall be
18 deemed to have occurred only if no significant aspect of the error
19 or delay is attributable to an act of, or a failure to act by, the ~~fee~~
20 ~~payer~~ *feepayer*.

21 (c) Any person seeking relief under this section shall file with
22 the board a statement under penalty of perjury setting forth the
23 facts on which the claim for relief is based and any other
24 information which the board may require.

25 (d) The board may grant relief only for interest imposed on fee
26 liabilities that arise during fee periods commencing on or after
27 January 1, 2000.

28 SEC. 34. Section 50112.4 of the Revenue and Taxation Code
29 is amended to read:

30 50112.4. (a) The board, in its discretion, may relieve all or
31 any part of the interest imposed on a person by ~~Section 50112.1 and~~
32 ~~may relieve all or any part of the interest imposed on a person by~~
33 ~~Section 50113 when the deficiency determination is made because~~
34 ~~no return was filed or payment of the fee was not made timely, this~~
35 *part* where the failure to pay fees is due in whole or in part to an
36 unreasonable error or delay by an employee of the board acting in
37 his or her official capacity.

38 (b) For purposes of this section, an error or delay shall be
39 deemed to have occurred only if no significant aspect of the error

1 or delay is attributable to an act of, or a failure to act by, the
2 feepayer.

3 (c) Any person seeking relief under this section shall file with
4 the board a statement under penalty of perjury setting forth the
5 facts on which the claim for relief is based and any other
6 information which the board may require.

7 (d) The board may grant relief only for interest imposed on fee
8 liabilities that arise during taxable periods commencing on or after
9 January 1, 2000.

10 SEC. 35. Section 55046 of the Revenue and Taxation Code is
11 amended to read:

12 55046. (a) The board, in its discretion, may relieve all or any
13 part of the interest imposed on a person by ~~Section 55043 and may~~
14 ~~relieve all or any part of the interest imposed on a person by~~
15 ~~Section 55061 when the deficiency determination is made because~~
16 ~~no return was filed or payment of the fee was not made timely, this~~
17 *part* where the failure to pay fees is due in whole or in part to an
18 unreasonable error or delay by an employee of the board acting in
19 his or her official capacity.

20 (b) For purposes of this section, an error or delay shall be
21 deemed to have occurred only if no significant aspect of the error
22 or delay is attributable to an act of, or a failure to act by, the
23 feepayer.

24 (c) Any person seeking relief under this section shall file with
25 the board a statement under penalty of perjury setting forth the
26 facts on which the claim for relief is based and any other
27 information which the board may require.

28 (d) The board may grant relief only for interest imposed on fee
29 liabilities that arise during taxable periods commencing on or after
30 January 1, 2000.

31 SEC. 36. Section 60212 of the Revenue and Taxation Code is
32 amended to read:

33 60212. (a) The board, in its discretion, may relieve all or any
34 part of the interest imposed on a person by ~~Sections 60207 and~~
35 ~~60302~~ *this part* where the failure to pay tax is due in whole or in
36 part to an unreasonable error or delay by an employee of the board
37 acting in his or her official capacity.

38 (b) For purposes of this section, an error or delay shall be
39 deemed to have occurred only if no significant aspect of the error

1 or delay is attributable to an act of, or a failure to act by, the
2 taxpayer.

3 (c) Any person seeking relief under this section shall file with
4 the board a statement under penalty of perjury setting forth the
5 facts on which the claim for relief is based and any other
6 information which the board may require.

7 (d) The board may grant relief only for interest imposed on tax
8 liabilities that arise during taxable periods commencing on or after
9 January 1, 2000.

